IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

WP(C).No. 29717 of 2005(K)

PETITIONER:

PRINCE JOSEPH MATHEW,
KANIAMKUDIYIL HOUSE,
VALAYAMCHIRANGARA.P.O., PERUMBAVOOR.

BY ADV. SRI.MURALI PURUSHOTHAMAN
SRI.P.M.BENZIR
SRI.DEEPU LAL MOHAN

RESPONDENTS:

1. **STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   WATER RESOURCES DEPARTMENT, GOVERNMENT SECRETARIAT
   THIRUVANANTHAPURAM.

2. **THE CHIEF ENGINEER,**
   WATER RESOURCES DEPARTMENT,
   PROJECT-II, THIRUVANANTHAPURAM.

3. **THE SUPERINTENDING ENGINEER,**
   PROJECT CIRCLE, PIRAVAOM.

4. **THE DEPUTY TAHSILDAR (REVENUE RECOVERY),**
   TALUK OFFICE, KUNNATHUNAD, PERUMBAVOOR.

BY ADDL.ADVOCATE GENERAL
GOVERNMENT PLEADER SRI. P.K.BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/02/2007, ALONG WITH WPC NO. 6188 OF 2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)NO.29717/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER NO.D3-758/96 DT.8.11.02 ISSUED BY THE 3RD RESPONDENT.

EXT.P2:- COPY OF THE ORDER NO.D3-758/96 DT.5.11.03 ISSUED BY THE 3RD RESPONDENT.

EXT.P3:- COPY OF THE DEMAND NOTICE NO.D3-15992/05 DT.5.9.05 ISSUED TO THE PETITIONER BY THE 4TH RESPONDENT.

EXT.P4:- COPY OF THE DEMAND NOTICE NO.D3-15992/05 DT, 5.9.05 ISSUED TO THE PETITIONER BY THE 4TH RESPONDENT.

E.XT.P5:- COPY OF THE JUDGMENT DT.15.7.05 OF THIS HONOURABLE COURT IN WP(C) NO.25986/05.

RESPONDENTS EXHIBITS

EXT.R3(a):- COPY OF THE RELEVANT CLAUSE 2 OF CONDITIONS OF CONTRACT.

EXT.R3(b):- COPY OF THE LETTER NO.D3-758/96 DT.26.5.2001.

EXT R3(c):- COPY OF THE LETTER N O.D3-758/96 DT.11.6.02.

/TRUE COPY/

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K.BALAKRISHNAN NAIR, J.

WP(C).Nos.29717 of 2005-K & 6188 of 2006-T

Dated this the Ist day of February, 2007.

JUDGMENT

WP(C).29717 of 2005:

The point raised by the petitioner is covered in his favour by the decision of this court in Ext.P5 judgment. The contract awarded to the petitioner was terminated at his risk and cost and the respondents are attempting to recover the loss allegedly sustained by them, from the petitioner. If any amount of the petitioner is with the respondents, they may adjust it towards his alleged liability. But, if any amount is to be recovered from the petitioner, the respondents will get a decree from the competent Civil Court. There cannot be any unilateral determination of liability. The respondents may get a decree from the competent Civil Court and thereafter proceed to recover the same invoking the revenue recovery machinery especially when breach of contract is seriously disputed by both sides. The writ petition is disposed of. Needless to say, if the respondents have suffered any damage by the commissions or omissions of the petitioner, they will be free to move the competent Civil Court for appropriate reliefs. The rights, if any, of the respondents in this regard will not be affected by this judgment.

W.P.(C).6188 of 2006:

The point raised by the petitioner herein is covered by the judgment of this court in W.P.(C).No. 19717 of 2005. It is ordered that the said judgment will govern this case also.

K.BALAKRISHNAN NAIR,
MS JUDGE.